

# House File 794 - Introduced

HOUSE FILE \_\_\_\_\_  
BY COMMITTEE ON LABOR

(SUCCESSOR TO HSB 269)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act concerning public employee collective bargaining and  
2 decisions rendered by administrative law judges.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 2677HV 83  
5 ec/rj/5

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1 1 Section 1. Section 10A.801, subsection 10, Code 2009, is  
1 2 amended by striking the subsection and inserting in lieu  
1 3 thereof the following:  
1 4 10. As provided by section 17A.15, decisions of  
1 5 administrative law judges employed by the division constitute  
1 6 final agency action for purposes of judicial review, except to  
1 7 the extent specified otherwise by statute.  
1 8 Sec. 2. Section 17A.15, subsections 1 and 2, Code 2009,  
1 9 are amended to read as follows:  
1 10 1. ~~When Except as otherwise provided by statute, when the~~  
1 11 ~~agency or an administrative law judge employed by the~~  
1 12 ~~department of inspections and appeals presides at the~~  
1 13 reception of the evidence in a contested case, the decision of  
1 14 the agency is a final decision.  
1 15 2. ~~When Except as otherwise provided by statute, when the~~  
1 16 ~~agency or an administrative law judge employed by the~~  
1 17 ~~department of inspections and appeals did not preside at the~~  
1 18 reception of the evidence in a contested case, the presiding  
1 19 officer shall make a proposed decision. Findings of fact  
1 20 shall be prepared by the officer presiding at the reception of  
1 21 the evidence in a contested case unless the officer becomes  
1 22 unavailable to the agency. If the officer is unavailable, the  
1 23 findings of fact may be prepared by another person qualified  
1 24 to be a presiding officer who has read the record, unless  
1 25 demeanor of witnesses is a substantial factor. If demeanor is  
1 26 a substantial factor and the presiding officer is unavailable,  
1 27 the portions of the hearing involving demeanor shall be heard  
1 28 again or the case shall be dismissed.  
1 29 Sec. 3. Section 20.1, subsection 2, paragraph g, Code  
1 30 2009, is amended to read as follows:  
1 31 g. ~~Assisting the attorney general in the preparation of~~  
1 32 ~~Preparing legal briefs and the presentation of presenting oral~~  
1 33 ~~arguments in the district court, the court of appeals, and the~~  
1 34 ~~supreme court in cases affecting the board.~~  
1 35 Sec. 4. Section 20.3, subsection 4, Code 2009, is amended  
2 1 to read as follows:  
2 2 4. "Employee organization" means an organization of any  
2 3 kind in which public employees participate and which exists  
2 4 for the primary purpose of representing public employees in  
2 5 their employment relations.  
2 6 Sec. 5. Section 20.5, subsection 3, Code 2009, is amended  
2 7 to read as follows:  
2 8 3. The chairperson and the remaining two members shall be  
2 9 compensated as provided in section 7E.6, subsection 5.  
2 10 Members of the board and other employees of the board shall be  
2 11 allowed their actual and necessary expenses incurred in the  
2 12 performance of their duties. All expenses and salaries shall  
2 13 be paid from appropriations for such purposes and the board  
2 14 shall be subject to the budget requirements of chapter 8.  
2 15 Sec. 6. Section 20.6, subsection 1, Code 2009, is amended  
2 16 to read as follows:  
2 17 1. ~~Administer Interpret, apply, and administer the~~  
2 18 provisions of this chapter.

2 19 Sec. 7. Section 20.6, subsection 3, Code 2009, is amended  
2 20 to read as follows:  
2 21 3. Establish minimum qualifications for arbitrators,  
2 22 ~~fact=finders,~~ and mediators, establish procedures for  
2 23 appointing, maintaining, and removing from a list persons  
2 24 representative of the public to be available to serve as  
2 25 arbitrators, ~~fact=finders,~~ and mediators, and establish  
2 26 compensation rates for arbitrators, ~~fact=finders,~~ and  
2 27 mediators.  
2 28 Sec. 8. Section 20.10, subsection 1, Code 2009, is amended  
2 29 to read as follows:  
2 30 1. It shall be a prohibited practice for any public  
2 31 employer, public employee or employee organization to  
2 32 ~~willfully~~ refuse to negotiate in good faith with respect to  
2 33 the scope of negotiations as defined in section 20.9.  
2 34 Sec. 9. Section 20.10, subsection 2, unnumbered paragraph  
2 35 1, Code 2009, is amended to read as follows:  
3 1 It shall be a prohibited practice for a public employer or  
3 2 the employer's designated representative ~~willfully~~ to:  
3 3 Sec. 10. Section 20.10, subsection 2, paragraph f, Code  
3 4 2009, is amended to read as follows:  
3 5 f. Deny the rights accompanying certification ~~or exclusive~~  
3 6 ~~recognition~~ granted in this chapter.  
3 7 Sec. 11. Section 20.10, subsection 3, unnumbered paragraph  
3 8 1, Code 2009, is amended to read as follows:  
3 9 It shall be a prohibited practice for public employees or  
3 10 an employee organization or for any person, union or  
3 11 organization or their agents ~~willfully~~ to:  
3 12 Sec. 12. Section 20.10, subsection 3, paragraph b, Code  
3 13 2009, is amended to read as follows:  
3 14 b. Interfere, restrain, or coerce a public employer with  
3 15 respect to rights granted in this chapter or with respect to  
3 16 selecting a representative for the purposes of negotiating  
3 17 collectively ~~on or~~ the adjustment of grievances.  
3 18 Sec. 13. Section 20.10, subsection 3, paragraph f, Code  
3 19 2009, is amended to read as follows:  
3 20 f. Violate the provisions of sections 732.1 to 732.3,  
3 21 which are hereby made applicable to public employers, public  
3 22 employees, and public employee organizations.  
3 23 Sec. 14. Section 20.10, subsection 4, Code 2009, is  
3 24 amended to read as follows:  
3 25 4. The expressing of any views, argument or opinion, or  
3 26 the dissemination thereof, whether ~~orally or~~ in written,  
3 27 printed, graphic, or visual form, shall not constitute or be  
3 28 evidence of any ~~unfair labor prohibited~~ practice under any of  
3 29 the provisions of this chapter, if such expression contains no  
3 30 threat of reprisal or force or promise of benefit.  
3 31 Sec. 15. Section 20.11, subsections 1, 2, and 3, Code  
3 32 2009, are amended to read as follows:  
3 33 1. Proceedings against a party alleging a violation of  
3 34 section 20.10, shall be commenced by filing a complaint with  
3 35 the board within ninety days of the alleged violation, causing  
4 1 a copy of the complaint to be served upon the accused party ~~in~~  
4 2 ~~the manner of an original notice as provided in this chapter.~~  
4 3 The accused party shall have ten days within which to file a  
4 4 written answer to the complaint. However, the board may  
4 5 conduct a preliminary investigation of the alleged violation,  
4 6 and if the board determines that the complaint has no basis in  
4 7 fact, the board may dismiss the complaint. The board shall  
4 8 promptly thereafter set a time and place for hearing in the  
4 9 county where the alleged violation occurred, provided,  
4 10 however, that the presiding officer may conduct the hearing  
4 11 through the use of technology from a remote location if the  
4 12 parties so agree or if witness demeanor will not be a  
4 13 substantial factor in resolving any disputed factual issues.  
4 14 The parties shall be permitted to be represented by counsel,  
4 15 summon witnesses, and request the board to subpoena witnesses  
4 16 on the requester's behalf. Compliance with the technical  
4 17 rules of pleading and evidence shall not be required.  
4 18 2. The board may designate one of its members, an  
4 19 administrative law judge, or any other qualified person  
4 20 employed by the board to conduct serve as the presiding  
4 21 officer at the hearing. ~~The administrative law judge~~  
4 22 ~~presiding officer~~ has the powers as may be exercised by the  
4 23 board for conducting the hearing and shall follow the  
4 24 procedures adopted by the board for conducting the hearing.  
4 25 The proposed decision of the ~~administrative law judge~~  
4 26 ~~presiding officer~~ may be appealed to the board ~~and the board~~  
4 27 ~~may hear the case de novo or upon the record as submitted~~  
4 28 ~~before the administrative law judge, utilizing procedures~~  
4 29 ~~governing appeals to the district court in this section so far~~

~~4 30 as applicable, or reviewed on motion of the board, in~~  
~~4 31 accordance with the provisions of chapter 17A.~~

4 32 3. The board shall appoint a certified shorthand reporter  
4 33 to report the proceedings and the board shall fix the  
4 34 reasonable amount of compensation for such service, and for  
~~4 35 any transcript requested by the board, which amount amounts~~

5 1 shall be taxed as other costs.

5 2 Sec. 16. Section 20.13, subsections 2 and 3, Code 2009,  
5 3 are amended to read as follows:

~~5 4 2. Within thirty days of receipt of a petition or notice~~  
~~5 5 to all interested parties if on its own initiative, the board~~  
5 6 shall conduct a public hearing, receive written or oral  
5 7 testimony, and promptly thereafter file an order defining the  
5 8 appropriate bargaining unit. In defining the unit, the board  
5 9 shall take into consideration, along with other relevant  
5 10 factors, the principles of efficient administration of  
5 11 government, the existence of a community of interest among  
5 12 public employees, the history and extent of public employee  
5 13 organization, geographical location, and the recommendations  
5 14 of the parties involved.

5 15 3. Appeals from such order shall be governed by ~~appeal~~  
~~5 16 provisions provided in section 20.11 the provisions of chapter~~  
~~5 17 17A.~~

5 18 Sec. 17. Section 20.14, subsection 2, paragraph a, Code  
5 19 2009, is amended to read as follows:

5 20 a. The employee organization has submitted a request to a  
5 21 public employer to bargain collectively with on behalf of a  
5 22 designated group of public employees.

5 23 Sec. 18. Section 20.14, subsection 6, Code 2009, is  
5 24 amended by striking the subsection.

5 25 Sec. 19. Section 20.15, subsections 1, 2, and 6, Code  
5 26 2009, are amended to read as follows:

5 27 1. Upon the filing of a petition for certification of an  
5 28 employee organization, the board shall submit a question to  
5 29 the public employees at an election in ~~an appropriate the~~  
5 30 bargaining unit found appropriate by the board. The question  
5 31 on the ballot shall permit the public employees to vote for no  
5 32 bargaining representation or for any employee organization  
5 33 which has petitioned for certification or which has presented  
5 34 proof satisfactory to the board of support of ten percent or  
5 35 more of the public employees in the appropriate unit.

6 1 2. If a majority of the votes cast on the question is for  
6 2 no bargaining representation, the public employees in the  
~~6 3 bargaining unit found appropriate by the board~~ shall not be  
6 4 represented by an employee organization. If a majority of the  
6 5 votes cast on the question is for a listed employee  
6 6 organization, then ~~the that~~ employee organization shall  
6 7 represent the public employees in ~~an appropriate the~~  
6 8 bargaining unit found appropriate by the board.

6 9 6. A petition for certification as ~~an the~~ exclusive  
6 10 bargaining representative of a bargaining unit shall not be  
6 11 considered by the board for a period of one year from the date  
6 12 of the ~~certification or~~ noncertification of an employee  
~~6 13 organization as the exclusive bargaining representative or of~~  
~~6 14 that bargaining unit. A petition for certification as the~~  
~~6 15 exclusive bargaining representative of a bargaining unit shall~~  
~~6 16 also not be considered by the board if the bargaining unit is~~  
~~6 17 at that time represented by a certified exclusive bargaining~~  
~~6 18 representative. The board shall also not consider a petition~~  
~~6 19 for decertification of a certified exclusive bargaining~~

~~6 20 representative during the duration of a collective bargaining~~  
~~6 21 agreement which, for purposes of this section, shall be deemed~~  
~~6 22 not to exceed two years. A collective bargaining agreement~~  
~~6 23 with the state, its boards, commissions, departments, and~~  
~~6 24 agencies shall be for two years and the provisions of a~~  
~~6 25 collective bargaining agreement except agreements agreed to or~~  
~~6 26 tentatively agreed to prior to July 1, 1977, or arbitrators'~~

~~6 27 or arbitrator's~~ award affecting state employees shall not  
6 28 provide for renegotiations which would require the refinancing  
6 29 of salary and fringe benefits for the second year of the term  
6 30 of the agreement, except as provided in section 20.17,  
6 31 subsection 6, and the effective date of any such agreement  
6 32 shall be July 1 of odd-numbered years, provided that if an  
6 33 exclusive bargaining representative is certified on a date  
6 34 which will prevent the negotiation of a collective bargaining  
6 35 agreement prior to July 1 of odd-numbered years for a period  
7 1 of two years, the certified collective bargaining  
7 2 representative may negotiate a one-year contract with ~~a the~~  
7 3 public employer which shall be effective from July 1 of the  
7 4 even-numbered year to July 1 of the succeeding odd-numbered  
7 5 year when new contracts shall become effective. However, if a

7 6 petition for decertification is filed during the duration of a  
7 7 collective bargaining agreement, the board shall award an  
7 8 election under this section not more than one hundred eighty  
7 9 days nor less than one hundred fifty days prior to the  
7 10 expiration of the collective bargaining agreement. If an  
7 11 employee organization is decertified, the board may receive  
7 12 petitions under section 20.14, provided that no such petition  
7 13 and no election conducted pursuant to such petition within one  
7 14 year from decertification shall include as a party the  
7 15 decertified employee organization.

7 16 Sec. 20. Section 20.17, subsection 3, Code 2009, is  
7 17 amended to read as follows:

7 18 3. Negotiating sessions, strategy meetings of public  
7 19 employers ~~or employee organizations~~, mediation, and the  
7 20 deliberative process of arbitrators shall be exempt from the  
7 21 provisions of chapter 21. However, the employee organization  
7 22 shall present its initial bargaining position to the public  
7 23 employer at the first bargaining session. The public employer  
7 24 shall present its initial bargaining position to the employee  
7 25 organization at the second bargaining session, which shall be  
7 26 held no later than two weeks following the first bargaining  
7 27 session. Both sessions shall be open to the public and  
7 28 subject to the provisions of chapter 21. Parties who by  
7 29 agreement are utilizing a cooperative alternative bargaining  
7 30 process may exchange their respective initial interest  
7 31 statements in lieu of initial bargaining positions at these  
7 32 open sessions. Hearings conducted by arbitrators shall be  
7 33 open to the public.

7 34 Sec. 21. Section 20.17, subsection 6, Code 2009, is  
7 35 amended to read as follows:

8 1 6. ~~No A~~ collective bargaining agreement or ~~arbitrators'~~  
8 2 ~~decision arbitrator's award~~ shall not be valid or enforceable  
8 3 if its implementation would be inconsistent with any statutory  
8 4 limitation on the public employer's funds, spending or budget,  
8 5 or would substantially impair or limit the performance of any  
8 6 statutory duty by the public employer. A collective  
8 7 bargaining agreement or ~~arbitrators'~~ arbitrator's award may  
8 8 provide for benefits conditional upon specified funds to be  
8 9 obtained by the public employer, but the agreement shall  
8 10 provide either for automatic reduction of such conditional  
8 11 benefits or for additional bargaining if the funds are not  
8 12 obtained or if a lesser amount is obtained.

8 13 Sec. 22. Section 20.17, subsection 10, Code 2009, is  
8 14 amended to read as follows:

8 15 10. The negotiation of a proposed collective bargaining  
8 16 agreement by representatives of a state public employer and a  
8 17 state employee organization shall be complete not later than  
8 18 March 15 of the year when the agreement is to become  
8 19 effective. The board shall provide, by rule, a date on which  
8 20 any impasse item must be submitted to binding arbitration and  
8 21 for such other procedures as deemed necessary to provide for  
8 22 the completion of negotiations of proposed state collective  
8 23 bargaining agreements not later than March 15. The date  
8 24 selected for the mandatory submission of impasse items to  
8 25 binding arbitration shall be sufficiently in advance of March  
8 26 15 to ~~insure~~ ensure that the ~~arbitrators' decision~~  
8 27 arbitrator's award can be reasonably made before March 15.

8 28 Sec. 23. Section 20.17, subsection 11, Code 2009, is  
8 29 amended to read as follows:

8 30 11. a. In the absence of an impasse agreement negotiated  
8 31 pursuant to section 20.19 which provides for a different  
8 32 completion date, public employees represented by a certified  
8 33 employee organization who are teachers licensed under chapter  
8 34 272 and who are employed by a public employer which is a  
8 35 school district or area education agency shall complete the  
9 1 negotiation of a proposed collective bargaining agreement not  
9 2 later than May 31 of the year when the agreement is to become  
9 3 effective. The board shall provide, by rule, a date on which  
9 4 impasse items in such cases must be submitted to binding  
9 5 arbitration and for such other procedures as deemed necessary  
9 6 to provide for the completion of negotiations of proposed  
9 7 collective bargaining agreements not later than May 31. The  
9 8 date selected for the mandatory submission of impasse items to  
9 9 binding arbitration in such cases shall be sufficiently in  
9 10 advance of May 31 to ensure that the ~~arbitrators' decision~~  
9 11 arbitrator's award can be reasonably made ~~before~~ by May 31.

9 12 b. ~~If the public employer is a community college, the~~  
9 13 ~~following apply:~~

9 14 (1) ~~The negotiation of a proposed collective bargaining~~  
9 15 ~~agreement shall be complete not later than May 31 of the year~~  
9 16 ~~when the agreement is to become effective, absent the~~

~~9 17 existence In the absence of an impasse agreement negotiated~~  
~~9 18 pursuant to section 20.19 which provides for a different~~  
~~9 19 completion date, public employees represented by a certified~~  
~~9 20 employee organization who are employed by a public employer~~  
~~9 21 which is a community college shall complete the negotiation of~~  
~~9 22 a proposed collective bargaining agreement not later than May~~  
~~9 23 31 of the year when the agreement is to become effective. The~~  
~~9 24 board shall adopt rules providing for provide, by rule, a date~~  
~~9 25 on which impasse items in such cases must be submitted to~~  
~~9 26 binding arbitration and for such other procedures as deemed~~  
~~9 27 necessary to provide for the completion of negotiations of~~  
~~9 28 proposed collective bargaining agreements not later than May~~  
~~9 29 31. The date selected for the mandatory submission of impasse~~  
~~9 30 items to binding arbitration in such cases shall be~~  
~~9 31 sufficiently in advance of May 31 to ensure that the~~  
~~9 32 arbitrators' decision arbitrator's award can be reasonably~~  
~~9 33 made by May 31.~~

~~9 34 (2) c. Notwithstanding the provisions of subparagraph (1)~~  
~~9 35 paragraphs "a" and "b", the May 31 deadline may be waived by~~  
~~10 1 mutual agreement of the parties to the collective bargaining~~  
~~10 2 agreement negotiations.~~

~~10 3 Sec. 24. Section 20.18, unnumbered paragraph 1, Code 2009,~~  
~~10 4 is amended to read as follows:~~

~~10 5 An agreement with an employee organization which is the~~  
~~10 6 exclusive representative of public employees in an appropriate~~  
~~10 7 unit may provide procedures for the consideration of public~~  
~~10 8 employee and employee organization grievances and of disputes~~  
~~10 9 over the interpretation and application of agreements.~~  
~~10 10 Negotiated procedures may provide for binding arbitration of~~  
~~10 11 public employee and employee organization grievances and of~~  
~~10 12 disputes over the interpretation and application of existing~~  
~~10 13 agreements. An arbitrator's decision on a grievance may not~~  
~~10 14 change or amend the terms, conditions or applications of the~~  
~~10 15 collective bargaining agreement. Such procedures shall~~  
~~10 16 provide for the invoking of arbitration only with the approval~~  
~~10 17 of the employee organization in all instances, and in the case~~  
~~10 18 of an employee grievance, only with the additional approval of~~  
~~10 19 the public employee. The costs of arbitration shall be shared~~  
~~10 20 equally by the parties.~~

~~10 21 Sec. 25. Section 20.19, Code 2009, is amended by adding~~  
~~10 22 the following new unnumbered paragraph:~~

~~10 23 NEW UNNUMBERED PARAGRAPH. Parties who by agreement are~~  
~~10 24 utilizing a cooperative alternative bargaining process shall,~~  
~~10 25 at the outset of such process, agree upon a method and~~  
~~10 26 schedule for the completion of impasse procedures should they~~  
~~10 27 fail to reach a collective bargaining agreement through the~~  
~~10 28 use of such alternative process.~~

~~10 29 Sec. 26. Section 20.21, unnumbered paragraphs 1 and 2,~~  
~~10 30 Code 2009, are amended to read as follows:~~

~~10 31 If the impasse persists ten days after the mediator has~~  
~~10 32 been appointed, the board shall appoint a fact-finder~~  
~~10 33 representative of the public, from a list of qualified persons~~  
~~10 34 maintained by the board. The fact-finder shall conduct a~~  
~~10 35 hearing, may administer oaths, and may request the board to~~  
~~11 1 issue subpoenas to compel the attendance of witnesses and the~~  
~~11 2 production of records. The fact-finder may petition the~~  
~~11 3 district court at the seat of government or of the county in~~  
~~11 4 which the hearing is held to enforce the subpoena. The~~  
~~11 5 fact-finder shall make written findings of facts and~~  
~~11 6 recommendations for resolution of the dispute each impasse~~  
~~11 7 item and, not later than fifteen days from the day of~~  
~~11 8 appointment date of the hearing, shall serve such findings and~~  
~~11 9 recommendations on the public employer and the certified~~  
~~11 10 employee organization.~~

~~11 11 The Upon receipt of the fact-finder's findings and~~  
~~11 12 recommendations, the public employer and the certified~~  
~~11 13 employee organization shall immediately accept the~~  
~~11 14 fact-finder's recommendation recommendations in their entirety~~  
~~11 15 or shall within five days submit the fact-finder's~~  
~~11 16 recommendations to the governing body of the public employer~~  
~~11 17 and members of the certified employee organization for such~~  
~~11 18 acceptance or rejection. If the dispute is not resolved by~~  
~~11 19 both parties' acceptance of the fact-finder's recommendations,~~  
~~11 20 the parties may continue to negotiate and resolve any disputed~~  
~~11 21 impasse items. If the dispute continues ten days after the~~  
~~11 22 report is submitted fact-finder's findings and recommendations~~  
~~11 23 are served, the report findings and recommendations shall be~~  
~~11 24 made available to the public by the board.~~

~~11 25 Sec. 27. Section 20.22, subsections 1, 2, and 3, Code~~  
~~11 26 2009, are amended to read as follows:~~

~~11 27 1. If an impasse persists after the fact-finder's findings~~

11 28 of fact and recommendations are made available to the public  
11 29 by the ~~fact-finder board~~, the parties may continue to  
11 30 negotiate or, the board shall have the power, upon request of  
11 31 either party, to arrange for arbitration, which shall be  
11 32 binding. The request for arbitration shall be in writing and  
11 33 a copy of the request shall be served upon the other party.  
11 34 2. ~~a. Each party shall submit to the board serve its~~  
11 35 ~~final offer on each of the impasse items upon the other party~~  
12 1 within four days of the board's receipt of the request a final  
12 2 ~~offer on the impasse items with proof of service of a copy~~  
12 3 ~~upon the other party for arbitration. Each party shall also~~  
12 4 ~~submit a copy of a draft of the proposed collective bargaining~~  
12 5 ~~agreement to the extent to which agreement has been reached~~  
12 6 ~~and the name of its selected arbitrator. The parties may~~  
12 7 continue to negotiate all offers until an agreement is reached  
12 8 or ~~a decision an award is~~ rendered by the ~~panel of arbitrators~~  
12 9 ~~arbitrator.~~  
12 10 b. ~~As an alternative procedure, the two parties may agree~~  
12 11 ~~to submit the dispute to a single arbitrator. If the parties~~  
12 12 ~~cannot agree on the arbitrator within four days, the selection~~  
12 13 ~~shall be made pursuant to subsection 5. The full costs of~~  
12 14 arbitration under this provision section shall be shared  
12 15 equally by the parties to the dispute.  
12 16 3. The submission of the impasse items to the ~~arbitrators~~  
12 17 ~~arbitrator~~ shall be limited to those issues that had been  
12 18 considered by the fact-finder and upon which the parties have  
12 19 not reached agreement. With respect to each such item, the  
12 20 ~~arbitration board arbitrator's~~ award shall be restricted to  
12 21 the final offers on each impasse item submitted by the parties  
12 22 to the ~~arbitration board arbitrator~~ or to the recommendation  
12 23 of the fact-finder on each impasse item.  
12 24 Sec. 28. Section 20.22, subsection 4, Code 2009, is  
12 25 amended by striking the subsection and inserting in lieu  
12 26 thereof the following:  
12 27 4. Upon the filing of the request for arbitration, a list  
12 28 of five arbitrators shall be served upon the parties by the  
12 29 board. Within five days of service of the list, the parties  
12 30 shall determine by lot which party shall remove the first name  
12 31 from the list and the parties shall then alternately remove  
12 32 names from the list until the name of one person remains, who  
12 33 shall become the arbitrator. The parties shall immediately  
12 34 notify the board of their selection and the board shall notify  
12 35 the arbitrator. After consultation with the parties, the  
13 1 arbitrator shall set a time and place for an arbitration  
13 2 hearing.  
13 3 Sec. 29. Section 20.22, subsections 5 and 6, Code 2009,  
13 4 are amended by striking the subsections.  
13 5 Sec. 30. Section 20.22, subsections 7 and 8, Code 2009,  
13 6 are amended to read as follows:  
13 7 7. The ~~panel of arbitrators arbitrator~~ shall at no time  
13 8 engage in an effort to mediate or otherwise settle the dispute  
13 9 in any manner other than that prescribed in this section.  
13 10 8. From the time of ~~appointment the board notifies the~~  
13 11 ~~arbitrator of the selection of the arbitrator until such time~~  
13 12 ~~as the panel of arbitrators makes its final determination~~  
13 13 ~~arbitrator's selection on each impasse item is made, there~~  
13 14 shall be no discussion concerning recommendations for  
13 15 settlement of the dispute by the ~~members of the panel of~~  
13 16 ~~arbitrators arbitrator~~ with parties other than those who are  
13 17 direct parties to the dispute. ~~The panel of arbitrators may~~  
13 18 ~~conduct formal or informal hearings to discuss offers~~  
13 19 ~~submitted by both parties.~~  
13 20 Sec. 31. Section 20.22, subsection 9, unnumbered paragraph  
13 21 1, Code 2009, is amended to read as follows:  
13 22 The ~~panel of arbitrators arbitrator~~ shall consider, in  
13 23 addition to any other relevant factors, the following factors:  
13 24 Sec. 32. Section 20.22, subsections 10, 11, 12, and 13,  
13 25 Code 2009, are amended to read as follows:  
13 26 10. The ~~chairperson of the panel of arbitrators arbitrator~~  
13 27 may ~~hold hearings and~~ administer oaths, examine witnesses and  
13 28 documents, take testimony and receive evidence, ~~and~~ issue  
13 29 subpoenas to compel the attendance of witnesses and the  
13 30 production of records, ~~and delegate such powers to other~~  
13 31 ~~members of the panel of arbitrators arbitrator~~. The ~~chairperson of the~~  
13 32 ~~panel of arbitrators arbitrator~~ may petition the district  
13 33 court at the seat of government or of the county in which ~~any~~  
13 34 ~~the~~ hearing is held to enforce the order of the ~~chairperson~~  
13 35 ~~arbitrator~~ compelling the attendance of witnesses and the  
14 1 production of records.  
14 2 11. ~~A majority of the panel of arbitrators The arbitrator~~  
14 3 shall select within fifteen days after ~~its first meeting the~~

14 4 ~~hearing~~ the most reasonable offer, in ~~its~~ the arbitrator's  
14 5 judgment, of the final offers on each impasse item submitted  
14 6 by the parties, or the recommendations of the fact-finder on  
14 7 each impasse item.

14 8 12. The selections by the ~~panel of arbitrators~~ arbitrator  
14 9 and items agreed upon by the public employer and the employee  
14 10 organization, shall be deemed to be the collective bargaining  
14 11 agreement between the parties.

14 12 13. The determination of the ~~panel of arbitrators~~ shall be  
14 13 by majority vote and arbitrator shall be final and binding  
14 14 subject to the provisions of section 20.17, subsection 6. The  
14 15 ~~panel of arbitrators~~ arbitrator shall give written explanation  
14 16 for ~~its selection~~ the arbitrator's selections and inform the  
14 17 parties of ~~its~~ the decision.

14 18 Sec. 33. Section 20.24, Code 2009, is amended to read as  
14 19 follows:

14 20 20.24 NOTICE AND SERVICE.

14 21 Any notice required under the provisions of this chapter  
14 22 shall be in writing, but service thereof shall be sufficient  
14 23 if mailed by restricted certified mail, return receipt  
14 24 requested, addressed to the last known address of the ~~parties~~  
14 25 intended recipient, unless otherwise provided in this chapter.

14 26 Refusal of restricted certified mail by any party shall be  
14 27 considered service. ~~Prescribed Unless otherwise provided in~~  
14 28 this chapter, prescribed time periods shall commence from the  
14 29 date of the receipt of the notice. Any party may at any time  
14 30 execute and deliver an acceptance of service in lieu of mailed  
14 31 notice.

14 32 Sec. 34. Section 20.30, Code 2009, is repealed.

14 33 EXPLANATION

14 34 This bill concerns decisions rendered by administrative law  
14 35 judges and also makes changes to Code chapter 20 governing  
15 1 public employee collective bargaining.

15 2 Concerning administrative law judge decisions, the bill  
15 3 amends Code sections 10A.801 and 17A.15 to provide that when  
15 4 an administrative law judge presides at a contested case  
15 5 hearing, the resulting decision is final agency action, and  
15 6 the agency head cannot reverse or modify the decision.

15 7 Several administrative agencies have a procedure established  
15 8 in their own enabling statutes, and for this reason, the bill  
15 9 has an exception for these statutory provisions.

15 10 The bill also makes changes to Code chapter 20.

15 11 Code section 20.1, subsection 2, is amended to provide that  
15 12 one of the powers and duties of the public employment  
15 13 relations board (PERB) is to represent the board in court.

15 14 Code section 20.6 is amended to provide that PERB shall  
15 15 establish the qualifications and procedures for appointing  
15 16 fact-finders in the same manner as for arbitrators and  
15 17 mediators and that PERB shall interpret, apply, and administer  
15 18 the provisions of Code chapter 20.

15 19 Code section 20.10, subsections 1, 2, and 3, are amended to  
15 20 eliminate the requirement that an act giving rise to a  
15 21 prohibited practice under this Code section must be willful to  
15 22 constitute a violation.

15 23 Code section 20.10, subsection 4, is amended to  
15 24 specifically provide that oral expression of views without  
15 25 threat of reprisal or force shall not constitute or be  
15 26 evidence of a prohibited practice.

15 27 Code section 20.11 is amended to allow a presiding officer  
15 28 in a prohibited practice hearing to hear the case through the  
15 29 use of technology from a location other than the county where  
15 30 the alleged violation occurred if the parties agree or witness  
15 31 demeanor is not a factor. The bill also allows PERB to  
15 32 designate one of its members or any other qualified person to  
15 33 preside at a prohibited practice hearing.

15 34 The bill amends Code sections 20.11, 20.13, and 20.14 to  
15 35 provide that Code chapter 17A, the Iowa administrative  
16 1 procedure Act, governs hearing and appeal proceedings  
16 2 described in those sections.

16 3 Code section 20.15, concerning certification elections for  
16 4 exclusive bargaining representation, is amended. The bill  
16 5 provides that a petition for certification of an exclusive  
16 6 bargaining representative for a bargaining unit cannot occur  
16 7 if that bargaining unit is currently represented by an  
16 8 exclusive bargaining representative. The bill also provides  
16 9 that a petition for decertification of a certified exclusive  
16 10 bargaining representative cannot occur during the duration of  
16 11 a collective bargaining agreement.

16 12 Code section 20.17, subsection 3, concerning bargaining  
16 13 procedures, is amended to provide that parties utilizing a  
16 14 cooperative alternative bargaining process may exchange their

16 15 initial interest statements in lieu of an initial bargaining  
16 16 position during bargaining.  
16 17 Code section 20.17, subsection 11, concerning the deadlines  
16 18 for community college employee bargaining, is amended to match  
16 19 the provisions of the subsection applicable to other  
16 20 educational bargaining units.  
16 21 Code section 20.18, concerning grievance procedures, is  
16 22 amended to provide that an agreement with an employee  
16 23 organization may include procedures for the consideration of  
16 24 employee organization grievances in addition to public  
16 25 employee grievances.  
16 26 Code section 20.19, concerning impasse procedures, is  
16 27 amended to require that parties using a cooperative  
16 28 alternative bargaining process establish impasse procedures at  
16 29 the outset of the process.  
16 30 Code section 20.21, concerning fact-finding procedures, is  
16 31 amended to require that the fact-finder make recommendations  
16 32 on each impasse item between the parties and that the parties  
16 33 accept or reject the fact-finder's recommendations in their  
16 34 entirety.  
16 35 Code section 20.22, concerning binding arbitration, is  
17 1 amended to provide that arbitration will be conducted by a  
17 2 single arbitrator and not a panel of arbitrators. The bill  
17 3 also provides for the method of selecting the arbitrator. The  
17 4 bill provides that PERB will submit a list of five arbitrators  
17 5 to the parties upon the filing of a request for arbitration  
17 6 and then each party, in an order determined by lot, shall  
17 7 alternatively remove names from the list until one name  
17 8 remains.  
17 9 LSB 2677HV 83  
17 10 ec/rj/5